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 From: Thinh V. Nguyen, Reg. No. 42,034
 Our Docket No.: 42P17605 Number of pages 19 including this sheet.
 Application No.: 10/676,961 Filing Date: 9/30/2003
 Docket Due Date(s): 8/20/2007

Enclosed are the following documents:

- | | |
|--|---|
| <input type="checkbox"/> Amendment: _____ (_____ pgs) | <input type="checkbox"/> Issue Fee Transmittal |
| <input type="checkbox"/> Appeal Brief (_____ pgs) | <input type="checkbox"/> Notice of Appeal (In duplicate) |
| <input type="checkbox"/> Application: _____
(_____ pgs) w/cover & abstract | <input type="checkbox"/> Petition for: _____ |
| <input type="checkbox"/> Assignment & Cover Sheet (_____ pgs) | <input type="checkbox"/> Request for Continued Examination (RCE) |
| <input checked="" type="checkbox"/> Certificate of Facsimile | <input checked="" type="checkbox"/> Reply Brief (<u>4</u> pgs) |
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| <input type="checkbox"/> Declaration & POA (_____ pgs) | <input type="checkbox"/> Request to Rescind Previous Nonpublication Request |
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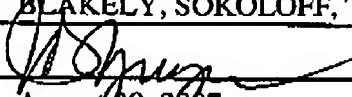
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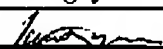
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TRANSMITTAL FORM (to be used for all correspondence after initial filing)		Application No.	10/676,961
		Filing Date	September 30, 2003
		First Named Inventor	Florence R. Pon
		Art Unit	2815
		Examiner Name	Chris C. Chu
Total Number of Pages in This Submission	7	Attorney Docket Number	42P17605

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> PTO/SB/08 <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Basic Filing Fee <input type="checkbox"/> Declaration/POA <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.62 or 1.63	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below): <div style="border: 1px solid black; height: 60px; width: 100%;"></div>
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Thinh V. Nguyen, Reg. No. 42,034 BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Signature	
Date	August 20, 2007

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FEE TRANSMITTAL
for FY 2006

Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27.

TOTAL AMOUNT OF PAYMENT (\$)

Complete if Known

Application Number	10/676,961
Filing Date	September 30, 2003
First Named Inventor	Florence R. Pon
Examiner Name	Chris C. Chu
Art Unit	2815
Attorney Docket No.	42P17605

METHOD OF PAYMENT (check all that apply)

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FEE CALCULATION

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051		2051		Surcharge - late filing fee or oath	
1052		2052		Surcharge - late provisional filing fee or cover sheet.	
2053		2053		Non-English specification	
1251	120	2251	60	Extension for reply within first month	
1252	450	2252	225	Extension for reply within second month	
1253	1,020	2253	510	Extension for reply within third month	
1254	1,590	2254	795	Extension for reply within fourth month	
1255	2,160	2255	1,080	Extension for reply within fifth month	
1401	500	2401	250	Notice of Appeal	
1402	500	2402	250	Filing a brief in support of an appeal	
1403	1,000	2403	500	Request for oral hearing	
1451	1,510	2451	1,510	Petition to institute a public use proceeding	
1460	130	2460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1808	180	1808	180	Submission of Information Disclosure Stmt	
1809	790	1809	395	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	790	2810	395	For each additional invention to be examined (37 CFR § 1.129(b))	

Other fee (specify) _____

SUBTOTAL (2) (\$)

SUBMITTED BY

Name (Print/Type)	<u>Thinh Y. Nguyen</u>	Registration No. (Attorney/Agent)	<u>42,034</u>	Telephone	<u>(714) 557-3800</u>
Signature		Date	<u>08/20/07</u>		

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Complete if Known

Application Number	10/676,961
Filing Date	September 30, 2003
First Named Inventor	Florence R. Pon
Examiner Name	Chris C. Chu
Art Unit	2815
Attorney Docket No.	42Pf7605

☐ Applicant claims small entity status. See 37 CFR 1.27.

TOTAL AMOUNT OF PAYMENT	(\$)
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METHOD OF PAYMENT (check all that apply)

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FEE CALCULATION

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
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1810	790	2810	395	For each additional invention to be examined (37 CFR § 1.129(b))	
Other fee (specify) _____					
SUBTOTAL (2)					(\$)

SUBMITTED BY

Name (Print/Type)	Thinh V. Nguyen	Registration No. (Attorney/Agent)	42,034	Telephone	(714) 557-3800
Signature		Date	08/20/07		

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Reply Brief filed August 20, 2007

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Application. No. : 10/676,961
Applicant : Florence R. Pon
Filed : 09/30/2003
TC/A.U. : 2815
Examiner : Chris C. Chu

Confirmation No. 8131

Docket No. : 042390.P17605
Customer No. : 8791

REPLY BRIEF

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants submit the following Reply Brief pursuant to 37 C.F.R. §41.41 for consideration by the Board of Patent Appeals and Interferences. Please charge any additional fees or credit any overpayment to our deposit Account No. 02-2666. A duplicate copy of the Fee Transmittal is enclosed for this purpose.

Docket No.: 042390.P17605
App. No.: 10/676,961

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Reply Brief filed August 20, 2007

REMARKS

Applicant is filing this Reply Brief to reply to the Examiner's Answer mailed June 20, 2007. The following numbered items correspond to the numbered items contained in the Examiner's Answer.

(5) Summary of Claimed Subject Matter:

In the Examiner's Answer, the Examiner contends that the summary of the claimed subject matter contained in the brief is deficient. Specifically, the Examiner contends that the paragraphs in the Appeal Brief on pages 4-5, "The upper die 122 may also be displaced by any angle with respect to the lower die 125. The stacking may also extended to the other dimension such that the upper second edge is displaced from the lower second edge by a second distance d_2 . . . Depending on how these [pairs] are stacked on one another, there are a number of stagger[ed] configurations of the entire stack. Examples of these configurations include a stair-case configuration in one dimension and a stair-case configuration in both dimensions", and "The dies are offset in both directions or dimensions by distances d_1 and d_2 " are not the subject matter defined in each of the independent claims (claims 1 and 31) involved in this appeal because appellant elected Species I (Figs. 2A and 2B) on November 30, 2004 and January 13, 2005, a stair-case arrangement in one-dimension (Examiner's Answer, pages 2-3). Applicant respectfully disagrees for the following reasons.

First, Applicant traversed the restriction requirements and submitted that the Examiner's grouping is improper in the responses filed on November 30, 2004, March 14, 2005, and July 8, 2005. Since the propriety of a restriction requirement may be reconsidered and a rejoinder may be possible (MPEP 821.04), Applicant believes that the summary of the invention should include these aspects of the invention.

Second, 37 CFR 41.37 (c)(1) merely requires "[a] concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which must refer to the specification by page and line number, and to the drawing, if any, by reference characters." There is no definition of "concise explanation". Applicant believes that by providing the staggered configurations and the offset in directions by distances d_1 and d_2 would help explain the invention. 37 CFR 41.37 (c)(1) does not forbid the

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introduction a few extra words to clarify the invention. The Examiner's objection to the summary of the invention is merely form over substance.

Third, as disclosed in the specification, Applicant uses the term "staggered configurations" to include the stair-case arrangement. The Specification clearly states that "[d]epending on how these [pairs] are stacked on one another, there are a number of stagger[ed] configurations of the entire stack. Examples of these configurations include a stair-case configuration in one dimension and a stair-case configuration in both dimensions." Accordingly the limitation as recited in claims 1 and 31 regarding "a stair-case configuration" is properly regarded as an example of a staggered configuration.

Fourth, the Examiner emphatic statement that "appellant [cannot] introduce another or new invention into the appeal brief after an election is once made and action given on the elected subject matter (see MPEP 1205.02 and MPEP 819)" is without merit. There is no such requirement in MPEP 1205.02. As for MPEP 819, the section merely states that "[t]he general policy of the Office is not to permit the applicant to shift to claiming another invention after an election is once made and action given on the elected subject matter." Here, applicant does not shift to claim another invention. (Emphasis added.) The claims being appealed are the same claims as rejected in the final Office Action. No additional claims are included.

(10) Response to Argument.

The Examiner contends that the rejected claims 1 and 31 do not recite a "staggered configuration" and the invention is directed to a stair-case arrangement in one dimension (Examiner's Answer, page 8, lines 1-4). Applicant respectfully disagrees. Arguments regarding restriction requirements are petitionable only, and not appealable. Therefore, issues regarding restriction requirements are not appropriate for this appeal. In this appeal, the claims are interpreted according to the specification. According to the specification, as discussed above, "[e]xamples of these [staggered] configurations include a stair-case configuration in one dimension and a stair-case configuration in both dimensions" (Specification, paragraph [0029]). In other words, although claims 1 and 31 do not specifically recite "staggered configuration", the "stair-case configuration" is considered an example of a "staggered configuration".

Furthermore, although the Applicant's Appeal Brief contains the word "staggered", all the arguments are applicable for the "stair-case configuration". See, for example, page

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Reply Brief filed August 20, 2007

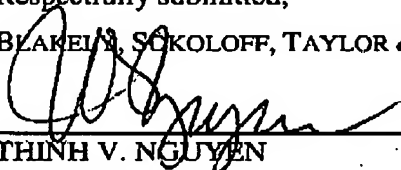
6, lines 29-32; page 7, lines 1-2; lines 26-29. The Examiner's focus on the use of a single appearance of the word "staggered" is clearly form over substance.

Moreover, even if the word "staggered" is changed to "stair-case", the cited prior art reference Hung does not disclose or suggest a stair-case configuration extending to more than two dice as argued in the Appeal Brief.

Applicant respectfully requests that the Board enter a decision overturning the Examiner's rejection of all pending claims, and holding that the claims satisfy the requirements of 35 U.S.C. §103(a).

Respectfully submitted,

BLAKE M. SOKOLOFF, TAYLOR & ZAFMAN LLP


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Dated: August 20, 2007

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